

Leg

OCA 2113-89  
7 July 1989

MEMORANDUM FOR: Director of Central Intelligence

FROM: E. Norbert Garrett  
Director of Congressional Affairs

SUBJECT: Legislative Proposal to Investigate Aviation  
Security and the Bombing of Pan Am 103

1. Please provide your concurrence to submit for Office of Management and Budget clearance the attached position paper objecting to legislative proposals for the establishment of a commission to investigate aviation security and the bombing of Pan Am 103.

2. On 21 June 1989, Secretary of Transportation Skinner, Secretary of State Baker, and Attorney General Thornburgh submitted a letter to Senate Majority Leader Mitchell and Senate Minority Leader Dole strongly objecting to this legislative proposal. Their letter cited, among other items, the concern that such a commission would "intrude upon our ability to enhance aviation security and prosecute the culprits of this despicable act."

3. Due to the fact that the Agency has additional equities which are harmed by this legislation, I think a letter from you is also advisable. The Department of Transportation would welcome your input.

E. Norbert Garrett

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Attachment

CONCUR:

Director of Central Intelligence

7/11/89

Date

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Central Intelligence Agency



Washington, D.C. 20505

The Honorable George J. Mitchell  
Majority Leader of the Senate  
United States Senate  
Washington, D.C. 20510

Dear Senator Mitchell:

I write to supplement the June 21, 1989 letter submitted to you by Secretary Baker, Attorney General Thornburgh, and Secretary Skinner on the legislative proposals to investigate aviation security and the bombing of Pan Am 103. ✓

For the reasons set forth below, the Central Intelligence Agency cannot support enactment of these legislative initiatives.

The various proposals would establish a commission, composed of representatives from the legislative and executive branches (to include a representative from the Intelligence Community) and the private sector, to investigate the crash of Pan Am Flight #103 (21 December 1988). One proposal also extends this investigation to the destruction of Korean Airlines Flight #007 (31 August 1983). Depending upon the legislative proposal, the commission would have from six to nine months in order to complete its investigation and issue a final report. During its investigation, the commission could request from Federal agencies any relevant information, including classified information, subject to certain conditions. Among other subjects, the commission would be required to assess "the coordination among Federal agencies of aviation security and related counterterrorism procedures and practices, including procedures and practices involving the gathering, assessment, and distribution of intelligence."

The Agency is concerned about the commission being given, in effect, a mandate to judge the sufficiency of counterterrorism intelligence collection, assessment, and distribution efforts. As the head of the Intelligence Community, the Director of Central Intelligence is continually evaluating the sufficiency of all United States Government intelligence efforts. These judgments obviously require intelligence expertise as well as knowledge of both the scope

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The Honorable George J. Mitchell

and priorities of the entire national intelligence mission and the resources available to support that mission. We question whether the commission would be equipped, given its short time frame and otherwise broad responsibilities, to make a truly meaningful assessment and whether, in any event, the sensitive intelligence information necessary to make such an assessment should be disseminated outside the Intelligence Community.

Expansion of the commission's mandate to include the destruction of Korean Airlines Flight #007 is also of concern. There appears to be no good reason to reopen the KAL 007 incident or to link these two disparate incidents. To do so at this time could raise significant foreign policy concerns, although we defer to the Department of State in this regard.

Despite the information protection provisions contained in the legislation, there remains the risk that sensitive counterterrorism intelligence sources and methods could be inadvertently disclosed in the course of the commission's investigation. Moreover, any interaction with the commission on demands for sensitive intelligence source and method information would likely require the involvement of those personnel who directly support the counterterrorism effort, thereby detracting from their ability to support that effort.

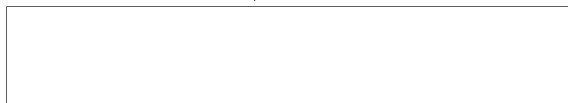
We also note that the commission's mandate appears to duplicate the oversight functions of the President's Foreign Intelligence Advisory Board as well as the intelligence oversight committees of the Congress.

For these reasons, we cannot support enactment of this legislation.

The Office of Management and Budget advises that the submission of this report is in accord with the program of the President.

This letter has also been sent to Senator Dole.

Sincerely yours,



William H. Webster  
Director of Central Intelligence

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SUBJECT: Legislative Proposal to Investigate Aviation Security  
and the Bombing of Pan Am 103

OCA/LEG/ [ ] (5 July 89)

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